

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 409

January 27, 2021

SUMMARY OF BILL: Changes, from March 1 to February 1, the date by which the Department of Safety (DOS) is required to submit an annual report on seizures.

Requires the report to additionally include:

- The race, gender, age, and zip code of property owner's residence;
- The number of arrests that occurred after the seizure notice was sent to DOS;
- The total value amount of property forfeited as a result of default;
- The total value of property returned to the property owner and the total value forfeited as a result of a settlement;
- The total value of property returned to the property owner as a result of a disposition by hearing;
- The total value of property forfeited as a result of a disposition by hearing;
- The total number of cases resulting in a criminal conviction of the property owner of seized currency or property;
- The total amount of currency forfeited in criminal conviction of property owner of currency or property;
- The total value of property forfeited in criminal conviction of property owner of currency or property; and
- How the proceeds derived from forfeited assets are used by each individual law enforcement agency.

Requires the report additionally to include the mean and median values and amounts of:

- The currency and property forfeited as a result of default;
- The time for cases from the date opened to the date of settlement and a result of a disposition by hearing;
- The currency and property returned as a result of settlement or a result of a disposition by hearing; and
- The currency and property forfeited in criminal convictions.

Requires that an affidavit in support of a forfeiture warrant include information as to whether criminal charges have been filed against the owner of the property or the person in possession of the property at the time of seizure.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$33,800/FY21-22

Assumptions:

- Pursuant to Tenn. Code Ann. § 40-33-216, DOS is required to submit an annual seizure report to the Speakers and the Chairs of the Judiciary Committees of the General Assembly by March 1.
- This legislation requires multiple new sets of demographic information to be collected which DOS has not previously collected. As a result, several information technology systems will require modification.
- Currently, the DOS contracted vendor charges \$225 per hour of programming. It can be reasonably estimated that the required modifications would entail a minimum of 150 hours, resulting in a one-time increase in state expenditures estimated to exceed \$33,750 (\$225 x 150) in FY21-22.
- Changing the deadline will not result in a significant increase in state expenditures.
- Pursuant to Tenn. Code Ann. § 40-33-204(b), any affidavit in support of a forfeiture warrant shall be sworn to and state the following:
 - The legal and factual basis making the property subject to forfeiture;
 - If the owner or co-owner of the property was not the person in possession of the property at the time of seizure and can be determined from public records of titles, registrations or other recorded documents, the affidavit shall state with particular specificity the officer's probable cause for believing that the owner or co-owner of the property knew that the property was of a nature making its possession illegal or was being used in a manner making it subject to forfeiture as well as the legal, and factual basis for forfeiture of the interest; and
 - If the interest of a secured party with a duly perfected security interest as reflected in the public records of titles, registrations or other recorded documents, is sought to be forfeited, the affidavit shall state with particular specificity the officer's probable cause that the secured party's interest in the property is nevertheless subject to forfeiture as well as the legal and factual basis for forfeiture of the interest.
- Requiring that an affidavit further includes information as to whether criminal charges have been filed against the owner of the property or the person in possession of the property at the time of seizure will not significantly impact law enforcement workload and will not significantly impact state or local expenditures.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Bojan Savic, Interim Executive Director

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